

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 22993 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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METHODIST TEACHERS TRAINING COLLEGE FOR WOMEN -
Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR NIRZAR S DESAI for Petitioner(s) : 1,
 MR. PRACHCHHAK, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
 None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 28/11/2005

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an

appropriate writ, direction and/or order for quashing and setting aside the order passed by the respondent No.1 - State Government i.e. Additional Secretary, Education Department, dated 10th November, 2003 in cancelling the N.O.C. granted by the State Government in favour of the petitioner trust to run P.T.C. college at Godhra and recommending the N.C.T.E. to cancel the recognition of the petitioner institute. The petitioner has also challenged the order dated 30th June, 2004 passed by the N.C.T.E. cancelling the recognition of the petitioner trust to run P.T.C. college. The petitioner institute was granted N.O.C. by the State Government to run P.T.C. college at Godhra and considering the N.O.C. granted by the State Government, the N.C.T.E. granted the recognition to the petitioner institute to run P.T.C. college at Godhra with an intake capacity of 40 students. It is required to be noted that the said intake capacity was subsequently reduced to 30 students. It is required to be noted that as per the rules and regulations and one of the condition of the recognition, no institute can give admission more than the sanctioned intake capacity. On the basis of the various complaints received against the petitioner institute, it appears that the State

Government instructed the Director of the Primary Education to inquire into it and submit the inquiry report to the government and it appears that the Inquiry Officer i.e. The Director of Primary Education submitted its report by letter dated 27th September, 2001. On the basis of the said report, the State Government heard the representative of the petitioner institute on 16th February, 2002 and after giving opportunity to the petitioner institute and considering the report of the Director of the Primary Education and comments submitted by the institute, the State Government has found that the petitioner institute has committed various irregularities such as the petitioner institute has not obeyed the rules of the N.C.T.E. and the Government of Gujarat; the petitioner institute has granted admission to the students more than the intake capacity and that the admissions are given to more 10 students without prior approval of the competent authority and without merits. Thus, the petitioner institute played mischief and irregularities in admission. Thus, after having held that the petitioner institute has committed breach of rules of the N.C.T.E. and the Government of Gujarat, by order dated 10th November, 2003 the State Government withdrew the N.O.C.

granted in favour of the petitioner institute and recommended to the N.C.T.E. to cancel the recognition of the P.T.C. college run by the petitioner institute. That thereafter, after giving an opportunity to the petitioner institute, the Regional Director of the N.C.T.E. by order dated 30th June, 2004 cancelled the recognition of the P.T.C. college run by the petitioner institute at Godhra. Being aggrieved and dissatisfied with the aforesaid two orders, the petitioner institute has preferred the present Special Civil Application under Article 226 of the Constitution of India.

2. Shri N.S. Desai, learned advocate appearing on behalf of the petitioner while assailing the aforesaid two orders has submitted that so far as the order passed by the State Government in cancelling the N.O.C. is concerned, the same is in breach of the principles of natural justice inasmuch as the charges and/or irregularities which are held to be proved against the petitioner institute are not mentioned in the show-cause notice and in the show-cause notice no particulars are given with regard to the rules and regulations which is alleged to have been breached by the petitioner

institute. It is further submitted that in the show-cause notice there was no allegation with regard to granting the admission de hors the merits and still the finding is given. It is also further submitted that no specific reasons have been given by the State Government and also the arguments submitted by the petitioner institute has not been recorded by the State Government. It is also further submitted that so far as the decision taken by the N.C.T.E. is concerned, it is a consequential decision taken by the N.C.T.E. on the basis of the recommendation of the State Government. He has also further submitted that the State Government has taken a decision with a pre-determined mind which suffers from the vice of mala-fide. It is submitted that the decision is taken on the basis of the stale incident of the academic year 2000-2001 and that thereafter for 3 years the petitioner institute has given admission to the students as per the recommendations of the Centralized Admission Committee and therefore, the respondents are now at this belated stage, not justified in cancelling the recognition of the petitioner institute and therefore, it is requested to allow the present Special Civil Application.

3. Shri Prachchhak, learned AGP while opposing the present Special Civil Application has submitted that even in the subsequent years also the petitioner institute has given admission to the students more than the intake capacity and it is factually incorrect that the admission more than the intake capacity was given only in the academic year 2000-2001. It is further submitted that even a criminal complaint is also filed against the petitioner institute and the management for granting admission by taking a huge donations and for other irregularities and the same is pending before the competent criminal Court as the charge-sheet is already filed. It is also further submitted that both the decisions are taken after giving an opportunity to the petitioner institute and therefore, it is requested to dismiss the present Special Civil Application.

4. Heard the learned advocates appearing on behalf of the parties.

5. It is not in dispute that the petitioner institute was granted recognition to run P.T.C. college with intake capacity of 30 students only. As per the rules and regulations and conditions of the recognition, no

institute can grant the admission more than the intake capacity. In the present case, admittedly the petitioner institute granted admission to 50 students i.e. more than the intake capacity and thereby committed breach of rules and regulations and conditions of the recognition and N.O.C. granted by the State Government. On the basis of the various complaints received by the State Government from the parents and the students, inquiry was initiated against the petitioner institute and a very serious irregularities were found such as granting admission to the students more than the intake capacity; granting the admission de hors the merits; granting the admission by taking huge donations and that the petitioner institute has not maintained the merits in admission and considering the aforesaid irregularities after giving an opportunity to the petitioner institute, the N.O.C. came to be cancelled and consequently, the recognition also came to be cancelled. It is required to be noted that the criminal complaint came to be filed against the petitioner institute and the management with allegation that the institute management was granting admission by taking huge donations and de hors the merits and after completion of

the investigation having found prima-facie case against the petitioner institute and management the charge-sheet came to be filed and the criminal case is pending before the competent criminal Court. It is required to be noted that even for the subsequent years also the institute has also granted the admission to the students more than the intake capacity and therefore, the contention on behalf of the petitioner that it was only for the academic year 2000-2001 and it was a stale incident and therefore, the recognition could not have been cancelled is factually incorrect, for subsequent years also it is found that the petitioner institute has granted admission more than the intake capacity.

6. The contention on behalf of the petitioner that the allegations with regard to granting the admission dehors the merits was not mentioned in the show-cause notice and therefore, the order is required to be vitiated is concerned, it is required to be noted that admittedly the petitioner institute has granted the admission to the students more than the intake capacity, that itself is the sufficient ground for the cancellation of the recognition and the N.O.C. Even otherwise, so far as the allegations with regard to

granting the admission dehors the merits and by taking huge donations is concerned, the police authority has investigated the same and having found prima face case against the petitioner institute, charge-sheet has been filed. Considering the over all facts and circumstances of the case, it cannot be said that the orders passed by the State Government as well as the N.C.T.E. cancelling the N.O.C./recognition are in any way illegal and/or arbitrary, which calls for the interference of this Court exercising the powers under Article 226 of the Constitution of India. Even otherwise, considering the facts stated herein above and the irregularities found against the petitioner institute, the petitioner institute cannot be permitted to run the P.T.C. college as the same is not in the interest of public at large as well as in the interest of the students also.

7. For the reasons stated above, there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly dismissed.

(M.R.SHAH, J.)

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